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November 11, 2013

VIA EMAIL AND ECF

The Honorable Katherine B. Forrest
United States District Judge
United States District Court, District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Courtroom 15A, New York, NY 10007-1312

Re: David Sellers v. Royal Bank of Canada, et al.
Docket No. 12 Civ. 1577 (KBF)

Dear Judge Forrest:

We represent Defendants in the above-referenced matter and write on behalf of both parties to respectfully request that the Court schedule a telephonic status conference to discuss the summary judgment briefing and trial schedules.

On Friday October 25, 2013, pursuant to the Court's June 27, 2013 Scheduling Order (Docket Entry No. 42), Defendants moved for summary judgment. Pursuant to Fed. R. Civ. P. 5, and because Plaintiff cannot register as an ECF filer, Defendants served hard copies of the filing on Plaintiff via Federal Express.[1] Plaintiff's opposition to Defendants' Motion for Summary Judgment is currently due November 15, 2013 and Defendants' reply is due November 22. Plaintiff disputes that service was timely since he did not *receive* the hard copy papers until the next business day, Monday October 28. Plaintiff now requests an 11-day adjournment of the opposition deadline to November 26 and proposes that the reply papers be due December 4. This proposal would require drafting the reply papers over the course of the Thanksgiving holiday and would then leave only two business days for completion of the Joint Pretrial Order, due December 9. Trial is scheduled to begin on December 16. While Defendants are not

[1] On Friday, October 25, Defendants also attempted to serve an electronic copy, but were informed by Plaintiff on Monday, October 28 that not all of the PDFs were sent. Defendants emailed the PDFs in question, but Plaintiff had by then received a hard copy of all documents via Federal Express.

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opposed to granting Plaintiff an extension of his briefing deadline, they cannot consent under the current (or Plaintiff's proposed) schedule, which already leaves little time to prepare for trial, if necessary, or for the Court to render a summary judgment decision prior to trial.

In addition, the parties respectfully request a Final Pretrial Conference "to formulate a trial plan, including a plan to facilitate the admission of evidence," should Plaintiff's claims survive summary judgment. Fed. R. Civ. P. 16(e). Such a conference would be particularly useful when the relevancy of certain evidence may turn on an imminent summary judgment ruling and where Plaintiff is represented *pro se* and thus, unfamiliar with trail practice. In addition, a Final Pretrial Conference can be used to address practical issues such as courtroom logistics including, but not limited to, use of demonstrative exhibits, opening/closing arguments, timeframes for arguments and witnesses, storage of exhibits overnight, etc. Finally, Your Honor's Individual Practices tie the briefing schedule for motions *in limine* to the date of the Final Pretrial Conference.

For these reasons, the parties jointly request a telephonic status conference to discuss the summary judgment and trial schedules.

Respectfully submitted,

August W. Heckman III

cc: James P. Walsh, Jr., Esq.
David Sellers (via email)